

Division of the Question for Voting

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Research References

5 Hinds §§ 6106–6162
8 Cannon §§ 3163–3176
Manual §§ 480–482, 791–793

A. Generally

§ 1. In General; Form

A question which consists of two or more separable substantive propositions is subject to a division of the question, if demanded (Rule XVI)

clause 6) so as to obtain a separate vote on each proposition. 89–1, Aug. 18, 1965, p 20948; 95–1, Mar. 31, 1977, p 9847. The procedure is applicable in the House as well as in the Committee of the Whole. 89–1, Aug. 18, 1965, p 20948; 93–2, Apr. 4, 1974, pp 9849, 9854, 9855. Clause 6 provides:

On the demand of any Member, before the question is put, a question shall be divided if it includes propositions so distinct in substance that one being taken away a substantive proposition shall remain. . . .

The rule contains provisos barring its application to special orders of business from the Committee on Rules or to propositions electing Members to standing or joint committees. *Manual* § 791. The entire rule may be suspended by the adoption of a resolution from the Committee on Rules. 7 Cannon § 775.

§ 2. Tests of Divisibility

To be divided for a vote, a question must consist of at least two separate and distinct propositions (94–1, Dec. 4, 1975, p 38717; 94–2, Sept. 9, 1976, p 29538) both grammatically and substantively, so that if one proposition is rejected a separate proposition will logically remain. See 94–1, Mar. 20, 1975; 94–2, May 26, 1976, p 15506. Either one being taken away a substantive proposition must remain upon which action can be taken by the House. 8 Cannon § 3165. In passing on a demand for division the Chair considers only the severability of the propositions and not the merits of the question presented. 5 Hinds § 6122.

The requirement that there must be at least two substantive propositions in order to justify division is strictly enforced. 5 Hinds §§ 6108–6113. If either proposition, standing alone, is not a distinct substantive proposition, the question is not divisible even though each portion is grammatically complete. 7 Cannon §§ 3165, 3167. However, in dividing a question into separate propositions, some restructuring of the language used is in order. 5 Hinds §§ 6114–6118; *Manual* § 792.

§ 3. Demanding a Division

A request for a division of the question does not require unanimous consent. 94–1, June 19, 1975, p 19767. No motion is made. 98–1, Nov. 8, 1983, p 31477. The Member seeking a division rises and addresses the Chair:

MEMBER: Mr. Speaker, I demand a division of the question.

SPEAKER: The gentleman will indicate the proposition(s) on which he desires a separate vote. . . .

SPEAKER: The gentleman requests a division, and that portion of the amendment will be divided for a separate vote.

[Or]

OPPONENT: Mr. Speaker, I make the point of order that the question is not susceptible of division, and that the portions indicated by the gentleman do not constitute separate substantive propositions.

SPEAKER: The Chair will hear the gentleman.

A demand for a division of a question is in order after the previous question has been ordered. 5 Hinds §§ 5468, 6149; 8 Cannon § 3173. Under Rule XVI clause 6, the demand for a division is in order before the question is put to the House for a vote. 94–1, Dec. 4, 1975, p 38717; 94–2, Sept. 9, 1976, p 29538. The question may not be divided after it has been put (5 Hinds § 6162) or after the yeas and nays have been ordered (5 Hinds §§ 6160, 6161). The demand is likewise untimely if the question is one against which a point of order has been raised and is pending. 8 Cannon § 3432.

A demand for a division of the question may be withdrawn; but this is permitted only by unanimous consent once the Chair has put the question on the first portion to be voted on. 94–2, Sept. 9, 1976, p 29540.

B. Division of Particular Propositions

§ 4. In General

Generally; Distinction Between Bills and Resolutions

Whether a division of the question may be demanded depends on the nature of the pending matter and on whether it meets the tests of divisibility (§ 2, *supra*) imposed by Rule XVI. Certain House resolutions—whether simple or concurrent—are subject to the demand when the question is put on agreeing thereto (§ 5, *infra*); but bills and joint resolutions are not divisible on passage. A separate vote may not be demanded on various provisions set forth in such a measure (5 Hinds §§ 6144–46; 8 Cannon § 3172) or on its preamble (5 Hinds § 6147). Certain amendments, such as a compound motion to strike (§ 10, *infra*) can be divided; but most other motions are not divisible.

A motion for the previous question on a proposition and an amendment thereto is not divisible. Rule XVII clause 1; 101–2, Sept. 25, 1990, p _____. However, when the previous question is ordered on a measure and a pending amendment, the vote comes first on the amendment, then on the text as perfected or not. And when the previous question has been ordered on adoption of a measure containing a series of simple resolutions, they may be divided for a vote on demand. 5 Hinds § 6149.

The question of engrossment and third reading of a bill under Rule XXI clause 1 is not subject to a demand for a division of the question. Under that clause engrossment and third reading is stated as one question and if divided would not present two separate substantive propositions under the rules of the House. 101–1, Aug. 3, 1989, p ____.

Appeals

There may be a division of the question on an appeal from a decision of the Speaker if the decision involves two or more separate and distinct questions. 5 Hinds § 6157.

§ 5. Simple or Concurrent Resolutions

A simple or concurrent resolution may be subject to a demand for a division of the question if it satisfies the test of divisibility imposed by Rule XVI (see § 2, *supra*). Thus, a concurrent resolution on the budget is subject to a demand for a division of the question if the resolution grammatically and substantively relates to different fiscal years (96–2, May 7, 1980, pp 10185–87), or includes a separate, hortatory section having its own grammatical and substantive meaning (102–2, Mar. 5, 1992, p ____). It is in order to demand a division of the question on agreeing to an impeachment resolution so as to obtain a separate vote on each article. 6 Cannon § 545.

To be subject to a demand for a division of the question, a resolution must present two or more separate and distinct substantive propositions. It has been held that a resolution (1) censuring a Member and (2) adopting the committee report recommending such censure on the basis of the committee's findings, is not divisible since these questions are substantially equivalent. 95–2, Oct. 13, 1978, p 37009. An adjournment resolution which also authorizes the receipt of veto messages from the President during the adjournment is not subject to a division of the question, as the receipt authority would be nonsensical standing alone. 94–2, June 30, 1976, p 21702.

It is not in order to demand a division of the question on matters that are merely incorporated by reference in the pending resolution. For example, when a resolution to adopt a series of rules, referred to but not made a part of the resolution, is before the House, it is not in order to demand a separate vote on each rule. 5 Hinds § 6159.

§ 6. — Resolutions Naming Two or More Individuals

While a resolution electing Members to standing or joint committees is not divisible (clause 6, Rule XVI), other types of resolutions relating to two or more named individuals may be divided for the purpose of voting. 94–

1, Mar. 19, 1975, p 7344. Thus, a resolution confirming the nomination of certain individuals to executive branch offices is subject to a division of the question so as to obtain a separate vote on each nominee. 94–1, Mar. 19, 1975, p 7344.

A resolution relating to two or more named individuals may be divided even though that may require a grammatical reconstruction of the text. 5 Hinds § 6121. A word that is a mere formality, such as “resolved,” is sometimes supplied by interpretation of the Chair. 5 Hinds §§ 6114–6118. However, a contempt resolution certifying three persons in one resolve clause has been held not divisible. 74–2, May 28, 1936, p 8220. Recent practice suggests that in such cases separate resolve clauses be drafted for inclusion in the resolution. 99–2, Feb. 27, 1986, pp 3050, 3061.

§ 7. — Special Orders

Resolutions reported from the Committee on Rules providing a special order of business are not divisible, since a division of such questions is prohibited by Rule XVI clause 6. *Manual* § 792. However, other types of special rules from the committee are subject to a demand for a division where the resolution contains separate and distinct substantive propositions as required by Rule XVI. (Tests of divisibility, see § 2, *supra*.) For example, a resolution reported from that committee establishing two or more select committees is subject to a demand for a division of the question. 100–1, Jan. 8, 1987, p 1036.

§ 8. Amendments

Generally

Rule XVI clause 6 permits a division of the question on an amendment on the demand of any Member where the amendment is properly divisible into two or more substantive propositions. 93–2, Apr. 4, 1974, pp 9849, 9854, 9855. A division is in order before the Chair puts the question on the amendment if the amendment contains propositions so distinct in substance that one being taken away, a substantive proposition remains. 98–1, Nov. 8, 1983, p 31494. Thus, an amendment offered to an appropriation bill, providing that no part of the appropriation may be paid to named individuals, may be divided for a separate vote on each name. 78–1, Feb. 5, 1943, p 645.

Amendments Taken Up in Committee of the Whole

The rule permitting a division of the question (Rule XVI clause 6) is applicable to an amendment consisting of two or more substantive propo-

sitions under consideration in the Committee of the Whole. 89–1, Aug. 18, 1965, p 20948; 93–2, Apr. 4, 1974, pp 9849, 9854, 9855. A request for a division of the question on such an amendment may be made in the Committee at any time before the Chair puts the question thereon. 5 Hinds § 6162; 97–1, Oct. 21, 1981, p 24785. However, an amendment reported to the House from the Committee of the Whole as an entire and distinct amendment is not subject to a division of the question in the House. 4 Hinds §§ 4883–4892. A separate vote may not be demanded in the House on an amendment adopted in the Committee to an amendment unless specifically permitted by special order. 8 Cannon §§ 2422, 2426, 2427; *Manual* § 792. Generally, see COMMITTEES OF THE WHOLE.

Perfecting Amendments; Substitute Amendments

An amendment adding language to the pending text is divisible if the language to be added contains two or more distinct propositions. 5 Hinds §§ 6129, 6133. However, a substitute amendment is not subject to a demand for a division of the question. 5 Hinds § 6127; 8 Cannon § 3168; 96–2, July 2, 1980, p 18292. The division of a motion to strike out and insert is precluded by House rule. § 11, *infra*.

A division of the question may be demanded on an amendment before amendments are adopted thereto, or on the amendment as amended (assuming that perfecting amendments or an adopted substitute do not destroy the divisibility of the amendment as amended). 95–1, Oct. 19, 1977, p 34259.

A negative vote on a motion to strike out a portion of a pending amendment does not prevent a demand for a division of that portion of the amendment if it is a separate proposition and therefore properly severable. 89–1, Aug. 18, 1965, p 20956.

§ 9. — En Bloc Amendments

Consideration of several amendments en bloc by unanimous consent or otherwise does not prevent a division of the question from being demanded so as to obtain a separate vote on one of the amendments. 96–1, Dec. 14, 1979, p 36194. 102–1, July 18, 1991, p _____. In fact, a Member may be permitted to offer several amendments en bloc and then demand a division of the question for a separate vote on each one. 89–2, June 9, 1966, p 12881. However, amendments en bloc proposing only to transfer appropriations among objects in a general appropriation bill (without increasing the levels of budget authority or outlays in the bill), when considered en bloc pursuant to Rule XXI, are not subject to a demand for division of the question in the House or in the Committee of the Whole. Clause 2(f) (adopted in 1995).

§ 10. Motions to Strike

A motion striking out various unrelated propositions may be divided for purposes of voting. 8 Cannon § 3166; 98–2, Mar. 28, 1984, p 6898. Thus, an amendment proposing to strike out two or more sections of a pending amendment may be divided in order to obtain separate votes on the proposal to strike out each section. 93–2, July 25, 1974, pp 25238, 25239. However, an amendment proposing to strike out a provision in a bill—and to redesignate subsequent paragraphs accordingly—is not subject to a demand for a division, since it contains only one substantive proposition. 93–2, Dec. 10, 1974, p 38746.

§ 11. Motions to Strike and Insert

Although a motion to insert may be divisible (§ 8, *supra*), the division of a motion to strike out and insert is precluded by Rule XVI clause 7. *Manual* § 793. The indivisibility of a motion to strike and insert under clause 7 of Rule XVI operates not only between the branches of the motion but also within each branch. 8 Cannon § 3169. See also 5 Hinds § 6124.

A simple motion to strike may not be offered as a substitute for a motion to strike certain words and insert others, as that would have the effect of dividing the motion to strike out and insert. *Manual* § 793.

§ 12. Motions to Suspend the Rules

A question being considered pursuant to a motion to suspend the rules may not be divided for a vote. 5 Hinds §§ 6141–6143; 8 Cannon § 3171. Although a proposition may be subject to a division of the question under Rule XVI, it cannot be divided if Rule XVI is suspended. 5 Hinds § 6143. Generally, see SUSPENSION OF RULES.

§ 13. Motions to Recommit

A motion to recommit with instructions is not subject to a demand for a division of the question. It is not in order to demand a separate vote even where the motion includes separate branches of instructions to the reporting committee. 5 Hinds §§ 6134–6137; 8 Cannon § 3170; *Manual* § 792. However, an amendment reported forthwith pursuant to instructions contained in a successful motion to recommit may be divided on the question of its adoption if composed of substantially and grammatically distinct propositions. 103–1, June 29, 1993, p ____.

Instructions in a motion to recommit a conference report may not be divided (103–2, Sept. 29, 1994), but a division has been permitted where

multiple motions are in order pursuant to Rule XXVIII clause 1(c), the conferees having failed to report for 20 calendar days. 74–2, May 26, 1936, p 7951.

§ 14. Motions to Table

Since a motion to lay on the table is a summary motion, its only purpose being to defeat the pending proposition, it has been held that the motion to table is not subject to a demand for a division of the question. 5 Hinds § 6140. A division of the question is not in order even if the motion is applicable to two or more separate and distinct propositions, such as a series of resolutions. 5 Hinds § 6138. A motion to table a resolution and pending amendments is likewise indivisible. 5 Hinds §§ 6139, 6140.

§ 15. Senate Amendments

Generally; Motions to Concur

On the question of agreeing or disagreeing to a Senate amendment, it is not in order to demand a division so as to vote separately on different portions of the amendment. 5 Hinds §§ 6151, 6156. The amendment must be voted on as a whole. 8 Cannon § 3175. However, when two or more Senate amendments are considered in the House, a separate vote may be had on each amendment. 8 Cannon §§ 2383, 2400, 3191. After the stage of disagreement House rules permit separate votes on nongermane portions of Senate amendments. Rule XXVIII clause 5. See GERMANENESS OF AMENDMENTS.

Motions to Concur With an Amendment

A House amendment proposed in a motion to concur in a Senate amendment with an amendment is divisible if the proposed House amendment is in divisible form. 98–2, Oct. 11, 1984, p 32188. But such a motion may not be divided between concurring and amending. 8 Cannon § 3176. A motion to concur with an amendment adding a new provision to a Senate amendment may not be divided where that provision is not itself divisible substantively and grammatically under the same tests that apply to any other amendment. 93–1, Aug. 3, 1973, pp 28124–26; 98–2, Oct. 11, 1984, p 32188. Tests for divisibility, see § 2, *supra*.

A proposed House amendment to a Senate amendment is not divisible if the House amendment is in the form of a motion to strike out and insert (99–2, Oct. 15, 1986, p 32135), as such motions are specifically indivisible under House rule (§ 11, *supra*).

Motions to Recede and Concur

A division may be demanded on a motion to recede from disagreement and concur in a Senate amendment. 5 Hinds § 6209; 8 Cannon §§ 3197–3199. The question having been divided and the House having receded, a motion to amend takes precedence over the motion to concur (5 Hinds §§ 6209–6211; 8 Cannon § 3198), even after the previous question has been ordered on both motions (*Manual* § 525).

C. Consideration of Divided Propositions**§ 16. In General****Amendment and Debate; Putting the Question**

Where a division of the question has been demanded on separable portions of a proposition subject to amendment, an amendment to any of those portions may be offered until the Chair puts the question on the first portion. 94–2, Sept. 9, 1976, p 29530. After a vote has been taken on the first portion, the second is open to debate and amendment unless the previous question is ordered. *Manual* § 792.

Where a division of the question is demanded on a separable portion of an amendment, the Chair puts the question first on the remaining portion of the amendment, and that portion on which a division is demanded remains open for further debate and amendment. *Manual* § 482. If a division of the question is demanded on more than one portion of an amendment, the Chair puts the question first on the unaffected portions of the amendment (if any), then (after further debate) on the first part on which a division is requested, and then (after further debate) on the subsequent divisible portions. 97–1, Oct. 21, 1981, p 24789. Where neither portion of a divided question remains open to further debate or amendment, the question may be put first on the portion identified by the demand for division and then on the remainder. 104–1, June 8, 1995, p ____.

Voting

A question having been divided for a vote, the vote may be taken by one of the voting methods authorized by the House rules, such as a voice vote or recorded vote. See VOTING. In the House, a motion to reconsider the vote will lie, but a separate motion to reconsider must be offered with respect to each proposition voted on. 5 Hinds § 5609.